IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SIXTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Mr. JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 21652 of 2004

Between:

1 B. Bhaskar Reddy, S/o. Late Adisesha Reddy,
A.S.Narayana Engineering College Road, Nellore District.
2 G. Jitendra Kumar, S/o. Anjaneyulu Reddy,
R/o. 16-3-1211, Sramikanar, Nellore, Nellore District.

..... PETITIONERS

AND

1 The Commissioner of Proh & Excise, Government of A.P., Nampally, Hyderabad.
2 the Dy. Commissioner, Proh and Excise, Guntur, Guntur District.
3 the Excise Superintendent, Proh & Excise, Tekkemitta, Nellore.
4 The District Collector, Nellore District. Nellore.
5 Bhargavi Bar and Restaurant, rep. by its Proprietor B. Pullaiah, S/o. Srinivasulu,
R/o. D.No. 16-4-1868, Harnathpuram, Balaramnagar, Nellore Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue an appropriate Order writ or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the Official respondents herein in proposing to grant licence in favour of the 5th respondent to run the Bar and Restaurant at premises bearing D.No. 16-4-1868, Harnadhapuram (Balaramnagar), Nellore Town and District, which is situated within the residential locality as well as educational institutions, without initiating any action on the representation submitted by the petitioners along with other on 7-

10-2004 as illegal, arbitrary, unjust and consequently direct the respondents not to permit the 5th respondent to commence the business.

Counsel for the Petitioners:SMT.KAVITHA GOTTIPATI

Counsel for the Respondents 1 to 4: GP FOR PROHIBITION & EXCISE

Counsel for 5th respondent: Mr. P. Sreedhar Reddy

The Court at the stage of admission made the following ORDER:

Petitioners claim to be the residents of Haranadhapuram of Nellore town. According to them, the fifth respondent proposed to establish a bar and restaurant in the residential locality in contravention of Rule 6 of Indian Liquor and Foreign Liquor Rules, 1970. They plead that on coming to know the efforts of the fifth respondent, they have made representations to respondents 1 to 4 and despite the same, the steps are being taken to grant licence to the fifth respondent. The petitioners allege that the Commissioner of Nellore Municipality, in response to a query, has stated that the proposed place is in the middle of residential locality and still, the respondents 1 to 3 are inclined to grant licence to the fifth respondent.

Learned Government Pleader for Prohibition & Excise appearing for respondents 1 to 4 submits that the application of the fifth respondent for grant of licence on I.L. 17 is at the stage of consideration and the objections raised by the petitioners would certainly be taken into account at appropriate stage.

Sri P. Sridhar Reddy, learned counsel for the fifth respondent, submits that the place selected by the fifth respondent does not violate any provisions of the A.P. Excise Act, 1968 or the Rules made there under and the writ petition is filed with a mala fide intention.

The petitioners object for the proposed establishment of bar and restaurant at Haranadhapuram locality of Nellore town. The A.P. Excise Act and the Rules made there under provide necessary guidelines in the matter of selection of places for establishment of bars and restaurants or other categories of wine shops. The relevant provisions mandate that the views of the local authority shall also be taken into account before according such permissions. The question as to whether the place chosen by the fifth respondent does not

conform to the relevant provisions, has to be dealt with by the licensing authority and it is too early to conclude that the representation made by the petitioners has not been considered or taken into account.

This writ petition is disposed of directing that the respondents in particular the first respondent shall take into account the objections raised by the petitioners before any licence is granted to the fifth respondent. In case, the objections raised by the petitioners are not found valid, the reasons for such a conclusion shall also be communicated to the petitioners. No order as to costs.

26.11.2004

Note:

Issue CC. By 29.11.2004

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To

1 The Commissioner of Proh & Excise, Government of A.P., Nampally, Hyderabad.
2 the Dy. Commissioner, Proh and Excise, Guntur, Guntur District.
3 the Excise Superintendent, Proh & Excise, Tekkemitta, Nellore.
4 The District Collector, Nellore District. Nellore.
5 Two CCs. to the G.P. for Prohibition & Excise, High Court of A.P.,

Hyderabad (OUT)

6 Two CD copies.